



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2016-0772; FRL-9962-82-Region 9]

Determination of Attainment and Approval of Base Year Emissions Inventories for the Imperial County, California Fine Particulate Matter Nonattainment Area; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: On March 13, 2017, the Environmental Protection Agency (EPA) published a direct final rule in the **Federal Register** determining that the Imperial County, California Moderate nonattainment area (“the Imperial County NA”) attained the 2006 24-hour fine particulate matter (PM_{2.5}) national ambient air quality standard. In the same action, the EPA approved a revision to California’s state implementation plan (SIP) consisting of the 2008 emissions inventory for the Imperial County NA submitted by the California Air Resources Board (CARB or “State”) on January 9, 2015. The EPA’s description in regulatory text of the SIP element that was approved inadvertently included information unrelated to the 2008 emissions inventory. This document corrects the regulatory text to clarify the provisions of the SIP that are approved.

DATES: This correcting amendment is effective on [Insert date of publication in the **Federal Register**].

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, EPA Region IX, (415) 972-3964, *Vagenas.Ginger@epa.gov*.

SUPPLEMENTARY INFORMATION: This action corrects an inadvertent error in a rulemaking related to the EPA’s approval of the 2008 emissions inventory for the Imperial

County NA. On March 13, 2017, the EPA published a direct final rule approving a revision of the California SIP – specifically, we approved the portion of Chapter 3 of CARB’s January 9, 2015 submittal that contains the 2008 emissions inventory for the Imperial County NA. This action contained amendatory instructions that added paragraph (484) to 40 CFR 52.220(c). However, in the amendatory instructions the EPA inadvertently failed to exclude Section 3.4.2 (“Determination of Significant Sources of PM_{2.5}”) from the portions of the SIP we intended to approve. This document corrects that error.

Correction

In the direct final rule published in the **Federal Register** on March 13, 2017 (82 FR 13392), on page 13397, third column, in amendatory instruction 2, §52.220(c)(484)(ii)(A)(I) should have listed Section 3.4.2 (“Determination of Significant Sources of PM_{2.5}”) among the portions of Chapter 3 that the EPA was excluding from its approval.

The EPA has determined that this action falls under the “good cause” exemption in section 553(b)(B) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action are unnecessary because the underlying rule for which this correcting amendment has been prepared was already subject to a 30-day comment period. No comments were received. Further, this action, which corrects an inadvertent regulatory text error that was included in the EPA’s March 13, 2017 direct final rule, is consistent with the substantive revision to the California SIP as described in the preamble of said action concerning the approval of the 2008 emissions inventory for the Imperial County NA. Because this correction action does not change the EPA’s analysis or overall action related to the approval of the 2008 emissions

inventory, no purpose would be served by additional public notice and comment. Consequently, additional public notice and comment are unnecessary.

The EPA also finds that there is good cause under APA section 553(d)(3) for the correction in the amendatory instructions and related paragraph designation to become effective on the date of publication. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication “as otherwise provided by the agency for good cause found and published with the rule.” 5 U.S.C. 553(d)(3). This rule does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. This action merely corrects an inadvertent error in the regulatory text of the EPA’s prior rulemaking for the California SIP. For these reasons, the EPA finds good cause under APA section 553(d)(3) for the correction to §52.220(c)(484)(ii)(A)(I) to become effective on the date of publication of this final rule.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). Because the agency has made a “good cause” finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section, above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or

uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant. In addition, this rule does not involve technical standards, thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, the EPA has made such a good cause finding, including the reasons therefore, and established an effective date of

[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 4, 2017.

Alexis Strauss,
Acting Regional Administrator,
Region IX.

Accordingly, 40 CFR part 52 is corrected by making the following correcting amendment:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by revising paragraph (c)(484)(ii)(A)(I) to read as follows:

§ 52.220 Identification of plan – in part.

*	*	*	*	*
(c)	*	*	*	
(484)	*	*	*	
(ii)	*	*	*	
(A)	*	*	*	

(I) “Imperial County 2013 State Implementation Plan for the 2006 24-Hour PM_{2.5} Moderate Nonattainment Area,” adopted December 2, 2014, Chapter 3 (“Emissions Inventory”) excluding: Section 3.4.1 (“Determination of Significant Sources of PM_{2.5} Precursors”); Section 3.4.2 (“Determination of Significant Sources of PM_{2.5}”); the 2011 and 2012 winter and annual average inventories in Table 3.1 (“PM_{2.5} Emissions Inventory by Major Source Category 2008, 2011 and 2012 Winter and Annual Planning Emissions Inventories”); the 2011 and 2012 winter and annual average inventories in Table 3.7 (“NO_x Emissions Inventory by Major Source Category 2008, 2011 and 2012 Winter and Annual Planning Emissions Inventories”); the 2011 and 2012 winter and annual average inventories in Table 3.8 (“VOCs Emissions Inventory by Major Source Category 2008, 2011 and 2012 Winter and Annual Planning Emissions Inventories”); the 2011

and 2012 winter and annual average inventories in Table 3.9 (“SO_x Emissions Inventory by Major Source Category 2008, 2011 and 2012 Winter and Annual Planning Emissions Inventories”); and the 2011 and 2012 winter and annual average inventories in Table 3.10 (“Ammonia Emissions Inventory by Major Source Category 2008, 2011 and 2012 Winter and Annual Planning Emissions Inventories”).

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